

FISCAL NOTE

Bill #: SB0402 **Title:** Mortgage Broker and Loan Originator Licensing Act

Primary Sponsor: Cocchiarella, V **Status:** As Amended in Senate Committee

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	<u>FY 2004 Difference</u>	<u>FY 2005 Difference</u>
Expenditures:		
State Special Revenue	\$36,821	\$94,329
Revenue:		
State Special Revenue	\$1,600	\$144,900
Net Impact on General Fund Balance:	\$0	\$0

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| <input type="checkbox"/> Significant Local Gov. Impact
<input type="checkbox"/> Included in the Executive Budget
<input checked="" type="checkbox"/> Dedicated Revenue Form Attached | <input checked="" type="checkbox"/> Technical Concerns
<input type="checkbox"/> Significant Long-Term Impacts
<input checked="" type="checkbox"/> Needs to be included in HB 2 |
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Fiscal Analysis

ASSUMPTIONS:

Department of Administration

- In the first license year there will be 65 mortgage broker licenses issued, 88 entity mortgage broker licenses issued, and 142 loan originator licenses issued (Montana Association of Mortgage Brokers). All licenses issued in FY 2005 will be issued on July 1. No license fees will have to be prorated. Estimated revenue from mortgage broker licenses will be \$76,500 in FY 2005 (153 licenses (65 + 88) x \$500 per license = \$76,500). Estimated revenue from loan originator licenses will be \$56,800 in FY 2005 (142 licenses x \$200 per license = \$56,800). Examinations are projected at three examiner-days per month, with fees, as in the bill, at \$300 per examiner per day. Revenue from examinations is estimated at \$10,800 in FY 2005 (36 examination days per year x \$300 per examination day = \$10,800).
- There will be 2.00 FTE needed for licensing matters, inquiries, complaints, investigations/examinations, and review and approval of continuing education courses and providers. One FTE will be a grade 12 (hired 7/1/04, \$32,213 in FY 2005); the other will be a grade 17 (hired 1/1/04, \$24,109 in FY 2004, \$48,219 in FY 2005). The latter staff member will be hired January 1, 2004, to set up the program for the July 1, 2004, date that licensing begins.
- Equipment for workstations and personal computers will be a one-time only expense of \$8,492 in FY 2004.

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4. Other Operating Expenses will be \$2,620 in FY 2004 and \$9,390 in FY 2005 for ARM publications, supplies and materials, communications, rent, and training. Travel costs will be \$3,707 in FY 2005. Rulemaking will require one public hearing and will generate eight pages of rules. ARM publication costs will remain at \$40 per page. Notice and adoption language will require one additional page. Training and continuing education expenses for the mortgage broker examiner/investigator will start in FY 2005.

Department of Justice

5. The Department of Administration estimates that in FY 2004 two hundred (200) individuals will have a background investigation under SB 402, and that the number will be significantly lower in FY 2005. It is assumed that 100 background investigations will occur in FY 2005.
6. The Department of Justice charges a fee of \$8 to cover expenditures for a state fingerprint based check and the FBI charges \$24 for a fingerprint-based check for a total processing cost of \$32 per check. These fees would be charged to the applicant. Revenue to the state would be \$1,600 in FY 2004 (\$8 per occurrence x 200 occurrences = \$1600) and half that amount or \$800 in FY 2005. Expenditures will be reflective of the revenues.
7. The average processing time at the Department of Justice to process a fingerprint-based background request is approximately fifteen (15) minutes.

FISCAL IMPACT:**Department of Administration**Banking Division

	FY 2004	FY 2005
	<u>Difference</u>	<u>Difference</u>
FTE	0.50	2.00

Expenditures:

Personal Services	\$24,109	\$80,432
Operating Expenses	2,620	13,097
Equipment	<u>8,492</u>	<u>\$0</u>
TOTAL	\$35,221	\$93,529

Funding of Expenditures:

State Special Revenue (02)	\$35,221	\$93,529
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Revenues:

State Special Revenue (02)	\$0	\$144,100
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Department of JusticeProgram 29 – Information Technology Services DivisionExpenditures:

Operating Expenses	\$1,600	\$800
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Funding of Expenditures:

State Special Revenue (02)	\$1,600	\$800
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Revenues:

State Special Revenue (02)	\$1,600	\$800
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FISCAL IMPACT: (continued)

	<u>FY 2004</u> <u>Difference</u>	<u>FY 2005</u> <u>Difference</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	\$0	\$0
State Special Revenue (02)	(\$35,221)	\$50,571

TECHNICAL NOTES:

1. Section 2 of the bill requires licensure as a mortgage broker or originator. Section 13 prevents licensure unless the applicant has a physical location in Montana. It appears that there are a very substantial number of mortgage loan brokers located in other states that do business by mail, by telephone or fax, or over the Internet. While it seems clear from the provisions of Sections 21 and 22 that the department has the responsibility of pursuing unlicensed brokers and loan originators, the resources and associated costs required to investigate and resolve complaints or allegations against these out-of-state, unlicensed entities cannot in any way be estimated.
2. In the event a mortgage broker's license is suspended or revoked, the division would be required to appoint a receiver and liquidate the business. The costs associated with the dissolution process cannot be estimated.
3. Section 9(2) and Section 10(2) references that the Criminal Investigation Bureau of the Department of Justice will perform criminal checks. This function is currently performed by the Criminal Justice Information Services Bureau of the Department of Justice. The bill could be changed to reflect the actual name.

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DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)
No. Mortgage brokers and loan originators will be the beneficiaries of the licensing function and will pay the costs of examining or investigating their business practices. However, Montana consumers will be protected by assuring compliance with state and federal laws.
- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?
No general fund appropriation is received for any of the division's operations. Fee revenue is deposited to the special revenue fund and expenses of the program are charged to the fund. Excess revenue, if any, is available for future expenses or fee reductions, as appropriate, for the benefit of the users of the particular program. The lack of a state special revenue designation for this program, combined with no general fund appropriation, means that the expenses of the program are underwritten by other programs within the division.
- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? ☒ Yes ☐ No (if no, explain)
- d) Does the need for this state special revenue provision still exist? ☒ Yes ☐ No (Explain)
- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)
No. The division's budget is prepared and presented in the same manner as most other state agencies and serves as the basis for the legislature's appropriation.
- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)
Yes. The Act requires licensing and examinations of the lenders, and also provides complaint and enforcement processes.
- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)
The financial institutions regulated by the division know that their payments to the state are dedicated to the operation of their regulatory and supervisory programs. State special revenue provides the opportunity to reduce fees to the financial institutions if fees collected exceed the costs of the program.